

## TEXT OF AMENDMENTS

**SA 929.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:  
**SEC. \_\_\_\_ . MEDICARE BENEFICIARY ACCESS TO REHABILITATION FACILITIES.**

(a) DEFINITIONS OF REHABILITATION HOSPITAL; REHABILITATION UNIT.—Section 1886(j) (42 U.S.C. 1395ww(j)) is amended by adding at the end the following new subsection:

“(8) DEFINITIONS OF REHABILITATION HOSPITAL; REHABILITATION UNIT.—

“(A) IN GENERAL.—The Secretary shall by regulation define the terms ‘rehabilitation hospital’ and ‘rehabilitation unit’ in a manner fully consistent with all the rehabilitation impairment categories (except miscellaneous) used to classify patients into case-mix groups pursuant to paragraph (2).

“(B) PERIODIC UPDATE REQUIRED.—The Secretary shall update the regulations promulgated under subparagraph (A) periodically to ensure that such definitions remain fully consistent with the rehabilitation impairment categories used to classify patients into case-mix groups pursuant to paragraph (2).”.

(b) PROHIBITION ON RETROACTIVE ENFORCEMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not seek to recoup any overpayment, take any enforcement action, or impose any sanction or penalty, with respect to a rehabilitation hospital, or a converted rehabilitation unit, (as such terms are defined for purposes of the Medicare program under title XVIII of the Social Security Act) insofar as such overpayment, enforcement action, sanction or penalty, is for failure to satisfy the requirement of section 412.23(b)(2) of title 42, Code of Federal Regulations, that 75 percent of the patients of the rehabilitation hospital or converted rehabilitation unit are in 1 or more of 10 listed treatment categories (commonly referred to as the “75 Percent Rule”).

**SA 930.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

**SEC. \_\_\_\_ . FREEZING INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT PERCENTAGE AT 6.5 PERCENT.**

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (V), by inserting “and” at the end; and

(2) by striking subclauses (VI) and (VII) and inserting the following new subclause:

“(VI) on or after October 1, 2001, ‘c’ is equal to 1.6.”.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking “1999 or” and inserting “1999,”; and

(2) by inserting “, or the Prescription Drug and Medicare Improvement Act of 2003” after “2000”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 2002.

**SA 931.** Ms. STABENOW (for herself, Mrs. BOXER, Mr. GRAHAM of Florida, Mr. ROCKEFELLER, Mr. HARKIN, Ms. CANTWELL, Mr. KERRY, Mr. BINGAMAN, Mr. REED, Mrs. CLINTON, Ms. MIKULSKI, Mr. LEVIN, Mr. KOHL, Mr. DODD, Mr. LIEBERMAN, Mr. REID, Mr. DAYTON, and Mr. JOHNSON) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; as follows:

“(e) MEDICARE GUARANTEED OPTION.—

“(1) ACCESS.—

“(A) IN GENERAL.—The Administrator shall enter into a contract with an entity in each area (established under section 1860D-10) to provide eligible beneficiaries enrolled under this part (and not, except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage, enrolled in a Medicare Advantage plan) and residing in the area with standard prescription drug coverage (including access to negotiated prices for such beneficiaries pursuant to section 1860D-6(e)). An entity may be awarded a contract for more than 1 area but the Administrator may enter into only 1 such contract in each such area.

“(B) ENTITY REQUIRED TO MEET BENEFICIARY PROTECTION AND OTHER REQUIREMENTS.—An entity with a contract under subparagraph (A) shall meet the requirements described in section 1860D-5 and such other requirements determined appropriate by the Administrator.

“(C) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under subparagraph (A).

“(D) SAME TIMEFRAME AS MEDICARE PRESCRIPTION DRUG PLANS.—The Administrator shall apply similar timeframes for the submission of bids and entering into to contracts under this subsection as the Administrator applies to Medicare Prescription Drug plans.

“(2) MONTHLY BENEFICIARY OBLIGATION FOR ENROLLMENT.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(A), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the applicable percent (as determined under section 1860D-17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D-15 before any adjustment under subsection (b) of such section) for the year.

“(3) PAYMENTS UNDER THE CONTRACT.—

“(A) IN GENERAL.—A contract entered into under paragraph (1)(A) shall provide for—

“(i) payment for the negotiated costs of covered drugs provided to eligible beneficiaries enrolled with the entity; and

“(ii) payment of prescription management fees that are tied to performance requirements established by the Administrator for the management, administration, and delivery of the benefits under the contract.

“(B) PERFORMANCE REQUIREMENTS.—The performance requirements established by the Administrator pursuant to subparagraph (A)(ii) shall include the following:

“(i) The entity contains costs to the Prescription Drug Account and to eligible bene-

ficiaries enrolled under this part and with the entity.

“(ii) The entity provides such beneficiaries with quality clinical care.

“(iii) The entity provides such beneficiaries with quality services.

“(C) ENTITY ONLY AT RISK TO THE EXTENT OF THE FEES TIED TO PERFORMANCE REQUIREMENTS.—An entity with a contract under paragraph (1)(A) shall only be at risk for the provision of benefits under the contract to the extent that the management fees paid to the entity are tied to performance requirements under subparagraph (A)(ii).

“(4) TERM OF CONTRACT.—A contract entered into under paragraph (1)(A) shall be for a period of at least 2 years but not more than 5 years.

“(5) NO EFFECT ON ACCESS REQUIREMENTS.—The contract entered into under subparagraph (1)(A) shall be in addition to the plans required under subsection (d)(1).

“(6) AUTHORITY TO PREVENT INCREASED COSTS.—If the Administrator determines that Federal payments made with respect to eligible beneficiaries enrolled in a contract under paragraph (1)(A) exceed on average the Federal payments made with respect to eligible beneficiaries enrolled in a Medicare Prescription Drug plan or a Medicare Advantage plan (with respect to qualified prescription drug coverage), the Administrator may adjust the requirements or payments under such a contract to eliminate such excess.

**SA 932.** Mr. ENZI (for himself and Mr. PRYOR) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; as follows:

On page 57, between lines 21 and 22, insert the following:

“(3) DISCLOSURE.—The eligible entity offering a Medicare Prescription Drug plan and the Medicare Advantage organization offering a Medicare Advantage plan shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts, direct or indirect subsidies, rebates, or other price concessions or direct or indirect remunerations made available to the entity or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

“(4) AUDITS AND REPORTS.—To protect against fraud and abuse and to ensure proper disclosures and accounting under this part, in addition to any protections against fraud and abuse provided under section 1860D-7(f)(1), the Administrator may periodically audit the financial statements and records of an eligible entity offering a Medicare Prescription Drug plan and a Medicare Advantage organization offering a Medicare Advantage plan.

On page 37, between lines 20 and 21, insert the following:

“(C) LEVEL PLAYING FIELD.—An eligible entity offering a Medicare Prescription Drug plan shall permit enrollees to receive benefits (which may include a 90-day supply of drugs or biologicals) through a community pharmacy, rather than through mail order, with any differential in cost paid by such enrollees.

“(D) PARTICIPATING PHARMACIES NOT REQUIRED TO ACCEPT INSURANCE RISK.—An eligible entity offering a Medicare Prescription

Drug plan may not require participating pharmacies to accept insurance risk as a condition of participation.

**SA 933.** Mr. BINGAMAN proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; as follows:

On page 120, between lines 16 and 17, insert the following:

“(I) ELIMINATION OF APPLICATION OF ASSET TEST.—With respect to eligibility determinations for premium and cost-sharing subsidies under this section made on or after October 1, 2008, such determinations shall be made without regard to subparagraph (C) of section 1905(p)(1) (to the extent a State, as of such date, has not already eliminated the application of such subparagraph).”

**SA 934.** Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 7, insert “(including syringes, and necessary medical supplies associated with the administration of insulin, as defined by the Administrator)” before the semicolon.

On page 170, line 10, insert “(including syringes, and necessary medical supplies associated with the administration of insulin, as defined by the Secretary)” before the comma.

**SA 935.** Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 410 and insert the following:

**SEC. 410. EXCEPTION TO INITIAL RESIDENCY PERIOD FOR GERIATRIC RESIDENCY OR FELLOWSHIP PROGRAMS.**

(a) CLARIFICATION OF CONGRESSIONAL INTENT.—Congress intended section 1886(h)(5)(F)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(F)(ii)), as added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), to provide an exception to the initial residency period for geriatric residency or fellowship programs such that, where a particular approved geriatric training program requires a resident to complete 2 years of training to initially become board eligible in the geriatric specialty, the 2 years spent in the geriatric training program are treated as part of the resident's initial residency period, but are not counted against any limitation on the initial residency period.

(b) INTERIM FINAL REGULATORY AUTHORITY AND EFFECTIVE DATE.—The Secretary shall promulgate interim final regulations consistent with the congressional intent expressed in this section after notice and pending opportunity for public comment to be effective for cost reporting periods beginning on or after October 1, 2003.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, June 18, 2003. The purpose of this meeting will be to discuss the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 18, 2003, at 10:00 a.m., to conduct an oversight hearing on “Review of the New Basel Capital Accord.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 18, 2003, at 2:00 p.m., to conduct a mark-up of “The Check Truncation Act of 2003” and of “S. 498, the Rev. Joseph A. De Laine Congressional Gold Medal Bill.”

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 18, 2003, at 2:30 p.m. to hold a hearing on A Review of the Development of Democracy in Burma.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 18, 2003, at 4:00 p.m. to hold a Nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 18, 2003 at 9:30 a.m. in SD-342 to consider the nominations of Fern Flanagan Saddler to be an Associate Judge, Superior Court of the District of Columbia; Judith Nan Macaluso to be an Associate Judge, Superior Court of the District of Columbia (new position created by District of Columbia Family Court Act of 2002); J. Michael Ryan to be an Associate Judge, Superior Court

of the District of Columbia (new position created by District of Columbia Family Court Act of 2002); and Jerry S. Byrd to be an Associate Judge, Superior Court of the District of Columbia (new position created by District of Columbia Family Court Act of 2002).

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment, Safety, and Training be authorized to meet for a hearing on “Reauthorization of the Workforce Investment Act” during the session of the Senate on Wednesday, June 18, 2003 at 10:00 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 18, 2003, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a HEARING on Native American Sacred Places.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 18, 2003 at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS**

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet to conduct a hearing on “The NewsCorp/DirecTV Deal: The Marriage of Content and Global Distribution” on Wednesday, June 18, 2003, at 2:30 p.m. in Room 226 of the Dirksen Senate Office building.

*Tentative Witness List*

*Panel I:* Mr. Rupert Murdoch, Chairman and CEO, News Corporation; Mr. Eddy Hartenstein, Chairman and CEO, DirecTV; Mr. Gene Kimmelman, Director, Consumer Union, Washington, DC; Mr. Robert Miron, Chairman and CEO, Advance/Newhouse Communications; Mr. Scott Cleland, CEO, The Precursor Group, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

**PRIVILEGE OF THE FLOOR**

Ms. STABENOW. Mr. President, I ask unanimous consent that Oliver Kim, a fellow in my office, be granted floor privileges during the consideration of S. 1.